



GARY R. HERBERT
Governor

GREGORY S. BELL
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

September 9, 2013

CERTIFIED MAIL
7005 2570 0000 4801 5396

Jeff Sagers
Southwest Stone Inc.
2421 West 350 North
Hurricane, Utah 84737

Subject: Findings of Fact, Conclusions, and Order for Violation MC-2013-42-01 and MC-2013-42-06,
Southwest Stone, Reef Mine, S/015/0094

Dear Mr. Sagers:

August 20, 2013, an Informal Conference was held to review the facts of violation and assessments for Violation MC-2013-42-01 and MC-2013-42-06. As a result of a review of all pertinent data and facts, including those presented in the Informal Conference, the attached document constitutes the findings of fact, conclusions, and order.

Within fifteen (15) days of your receipt of this letter, you or your agent may make a written appeal to the Board of Oil, Gas and Mining. To do so, you must escrow the assessed civil penalties with the Division within thirty (30) days of receipt of this letter, but in all cases prior to the Board Hearing. Failure to comply with this requirement will result in a waiver of your right of further recourse.

If no timely appeal is made, this assessed civil penalty of \$2,970 must be tendered within thirty (30) days of your receipt of this letter. Please remit payment to the Division of Oil, Gas and Mining, c/o Vickie Southwick at the address listed below.

Sincerely,

Dana Dean, P.E.
Associate Director
Assessment Conference Officer

DD/vs

Enclosures

Cc: Paul Baker

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UTAH DIVISION OF OIL, GAS AND MINING
WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES

COMPANY: Southwest Stone
PERMIT: S/015/0094 Reef Mine
VIOLATION: MC-2013-42-01

ASSESSMENT CONFERENCE OFFICER: Dana Dean

	Proposed Assessment	Final Assessment
(1) History/Previous Violations	<u>0</u>	<u>0</u>
(2) Seriousness	<u>24</u>	<u>20</u>
(3) Negligence	<u>8</u>	<u>8</u>
(4) Good Faith	<u>0</u>	<u>0</u>
Total Points	<u>32</u>	<u>28</u>

TOTAL ASSESSED FINE \$880.00

UTAH DIVISION OF OIL, GAS AND MINING
WORKSHEET FOR FINAL ASSESSMENT OF PENALTIES

COMPANY: Southwest Stone
PERMIT: S/015/0094 Reef Mine
VIOLATION: MC-2013-42-06

ASSESSMENT CONFERENCE OFFICER: Dana Dean

	Proposed Assessment	Final Assessment
(1) History/Previous Violations	<u>0</u>	<u>0</u>
(2) Seriousness	<u>33</u>	<u>29</u>
(3) Negligence	<u>15</u>	<u>15</u>
(4) Good Faith	<u>0</u>	<u>5</u>
Total Points	<u>48</u>	<u>39</u>

TOTAL ASSESSED FINE \$2,090.00

**BEFORE THE DIVISION OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

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**IN THE MATTER OF THE
INFORMAL ASSESSMENT
CONFERENCE for NOTICE OF
VIOLATION AND PROPOSED
ASSESSMENT; VIOLATION No.
MC-20103-42-01, AND MC-2013-42-
06, SOUTHWEST STONE REEF
MINE, S/015/0094, EMERY COUNTY,
UTAH**

**FINDINGS of FACT, CONCLUSIONS
OF LAW
AND ORDER**

CAUSE NO. S/015/0094

---ooOoo---

On August 20, 2013, the Division of Oil, Gas and Mining (Division) held an Informal Assessment Conference as provided for by R647-7-106 Utah Administrative Code (2009) in response to a request by Mr. Jeff Sagers to review the fact of violation and assessment amount for Cessation Orders MC-2013-42-01 and MC-2013-42-06, issued to him on May 5, 2013 and June 19, 2013 for lack of required surety and enlarging the disturbed area without submitting and NOI for a large mine at the Reef Mine, S/015/0094, Emery County, Utah.

ISSUES

The Division, in its Cessation Order, found that rules R647-3-111.1.111; R647-3-105.2.11 and R647-4-101 had been violated. These rules require that the operator have a valid permit and reclamation surety for all mining operations. The Division assessed a fine of \$4,400.00 for the violation.

PARTIES

Dana Dean, Associate Director Division of Oil, Gas and Mining served as the Hearing Officer. The hearing was conducted as an informal adjudicative proceeding. Wayne Western, Division Engineer/Permit Lead presented the facts and arguments in support of the Cessation Orders. Lynn Kunzler, Assessment Officer, presented the arguments concerning the determination of the assessment amount. Paul Baker, Minerals Program Manager was also in attendance and participated for the Division. Jeff Sagers represented Southwest Stone.

No recording or transcript of the conference was made.

FINDINGS OF FACT

Based on the information provided at the conference, the statements presented by those speaking, and on information in the files of the Division the following Findings and Conclusions were made.

1. The Request for an informal assessment conference was delivered to the Division on July 31, 2013
2. Notice of the Informal Assessment Conference was provided as required.

3. Mr. Sagers was mining without an adequate bond for the 5 acre permit area and subsequently increased the disturbance perimeter from the 5 acres allowed in his small mine permit to 25 acres.
4. Mr. Sagers was fully aware of the requirements to have an up-to-date permit and adequate reclamation bond in place in order to mine in the state of Utah.
5. On May 5, 2013 and June 19, 2013, the Division Issued Cessation Order MC-2013-42-01 and MC-2013-42-06, requiring the cessation of all operations at the Reef Mine until the bond was increased to current requirements and a Notice of Intention for a large mine was submitted by Southwest Stone. The CO also allowed for complete reclamation of the acres above 5 as an option to large mine permitting.
6. Mr. Sagers had been conducting concurrent reclamation on the acreage above 5 and had been in contact with SITLA as to whether they were satisfied with the reclamation. He quickly reclaimed the remaining acres greater than 5 upon receipt of the CO.

CONCLUSIONS OF LAW

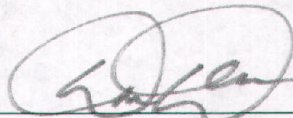
1. Mr. Sagers was aware of the Utah Mined Reclamation Act requirements for permitting and bonding.
2. The fact of the violation should stand.
3. Although the damage occurred, the disturbance was concurrently reclaimed. The damage points may be reduced.
4. Although the violation has not been abated, the acres above the 5 were immediately reclaimed. Good will points may be awarded.

ORDER

NOW THEREFORE, it is ordered that:

1. The facts of the violations are upheld.
2. The proposed assessment of \$4400.00 has been reduced to \$2,420.00

SO DETERMINED AND ORDERED this 6th day of September, 2013



Dana Dean, P.E., Associate Director/Conference Officer
Division of Oil, Gas and Mining